

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6437

BILL NUMBER: SB 47

NOTE PREPARED: Mar 31, 2005

BILL AMENDED: Jan 19, 2005

SUBJECT: Counterfeiting.

FIRST AUTHOR: Sen. Wyss

FIRST SPONSOR: Rep. Ulmer

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that a person who knowingly or intentionally: (1) makes or utters a counterfeit written instrument; or (2) possesses more than one counterfeit written instrument; commits counterfeiting, a Class D felony. The bill specifies that a person who possesses a counterfeit written instrument with the intent to defraud commits forgery, a Class C felony. It allows forfeiture of property used to commit forgery or counterfeiting.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) This bill makes it a Class D felony to knowingly or intentionally make or utter a counterfeit instrument, or possess more than one counterfeit written instrument. The bill makes it a Class C felony to possess a counterfeit written instrument with the intent to defraud or commit forgery. There are no data available to indicate how many people may be convicted of this Class C or D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$21,514 in FY 2004. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately

ten months; it is approximately two years for a Class C felony.

Explanation of State Revenues: *Seizure and Forfeiture:* The bill adds property used by a person to commit counterfeiting or forgery to the list of items that may be seized by law enforcement. The proceeds from property seized and sold are deposited in the general fund of the state or the unit that employed the law enforcement officers that seized the property, and any excess value of the proceeds over law enforcement agency costs are transferred to the State Treasurer for deposit in the Common School Fund. The revenues from forfeitures in the Common School Fund are not separately identified in the state accounting system.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C or D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.

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